of Spahlinger entitled "Method For Preventing Bias-Errors as a Result of Synchronous Interference in Fiber-Optic Gyroscopes". As no amendments to the claims or arguments against the merits of the cited reference are included, this amendment is properly entered in response to the pending final office action.

In the first office action issued in this application, the Examiner rejected Claims 1 through 3 as allegedly anticipated by the United States patent of Chang. In response, the Applicant amended apparatus Claim 2 and submitted supporting arguments. The Examiner has acknowledged the Applicant's position as stated in this response by withdrawing the prior rejection. (Paragraph 6 of the current office action.)

While withdrawing the prior rejections, the Examiner has raised new grounds for rejection in the current office action based primarily on the Spahlinger reference. Method Claim 1 is rejected as allegedly obvious in light of Spahlinger while apparatus Claims 2 and 3 are rejected as allegedly rendered obvious by Spahlinger in view of the United States patent of Page.

Spahlinger issued as a United States patent on March 13, 2007. The United States patent was prosecuted as the U.S.

National Phase of International patent application PCT/EP02/06860 which was filed in the European Patent Office as Receiving Office on June 20, 2002. That International application was published as WO 03/001153 on January 3, 2003. A copy of the International publication, which is in the German language, is enclosed.

The pending application was filed on March 29, 2005 as the United States National Phase of International patent application PCT/EP03/010328 filed in the European Patent Office as receiving office on September 17, 2003 and claiming Convention priority from German patent application 102 45 540.6 filed September 30, 2002.

The Spahlinger patent upon which the Examiner relies for the new rejections of the present office action has been improperly cited and relied upon as is does not constitute prior art relative to the invention of the current application. While the Convention priority date of the pending application (September 30, 2002) is subsequent to the International filing date of Spahlinger (June 20, 2002), Spahlinger cannot rely upon its International filing to establish prior art status.

As Spahlinger only issued as a United States during the pendency of the present application, it can only be categorized

if falling within the bounds of 35 U.S.C. 102(e). This states,

"A person shall be entitled to a patent unless the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in Section 351(a)."

The Applicant of the pending application is entitled to rely upon at least the Convention priority date of September 30, 2002 as date of invention. Since this precedes the U.S. filing date of Spahlinger (June 25, 2004) and the International filing date of Spahlinger does not apply, the Spahlinger patent is clearly not prior art relative to the pending application under 35 U.S.C. 102(e)(2).

With regard to the applicability of 35 U.S.C. 102(e)(1), Spahlinger again fails to qualify as prior art relative to the pending application. While the international filing date of Spahlinger (June 20, 2002) precedes the Convention priority date of the pending application (September 30, 2002),

reliance cannot be made upon Spahlinger's international filing date for prior art purposes as WO 001153, as can be seen by reference to the enclosed, is in German, and not in the English language. Accordingly, Spahlinger, which was pending at the time of filing of the pending application, can be accorded a date of relevance with respect to 35 U.S.C. 102(1) only as early as the date the U.S. filing was made (June 25, 2004).

As the Spahlinger patent does not constitute prior art relative to the pending application and the Examiner found the Applicants' arguments persuasive with respect the prior office action, the all presently-pending claims of the application define patentable inventions. Prompt allowance and issuance of all pending claims are therefore earnestly solicited.

Respectfully submitted,

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